

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>April 14, 2014</u>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE ALUMINUM WAREHOUSING :
ANTITRUST LITIGATION :
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13 MD 2481 (KBF)

ORDER

KATHERINE B. FORREST, District Judge:

At the initial conference in this multidistrict litigation on February 6, 2014, plaintiffs informed the Court that they wished to consolidate most actions into three consolidated complaints. (2/6/14 Tr. at 10-11, ECF No. 233.) Subsequently, on February 17, 2014, plaintiffs Agfa Corp. and Mag Instrument, Inc. informed the Court of their intention to stay separate from these three consolidated complaints by amending their previously-filed complaints (in 14 Civ. 211 and 14 Civ. 217, respectively) to allege individual, non-class action claims. (ECF No. 167.)

As of the date of this Order, **29** actions have been transferred to this Court as part of this multidistrict litigation. Based on the Court's review of the three consolidated amended complaints, the amended complaints filed by Agfa Corp. and Mag Instrument Inc., counsel's notices of appearance, and Case Management Order No. 2, it states its understanding as follows:

- The Second Corrected Consolidated Amended Class Action Complaint filed by the "Direct Purchasers" (ECF No. 271) is the operative

complaint for the following **15** actions:¹ 13 Civ. 5537, 13 Civ. 6689, 13 Civ. 7642, 13 Civ. 8847, 13 Civ. 9101, 14 Civ. 129, 14 Civ. 132, 14 Civ. 134, 14 Civ. 135, 14 Civ. 176, 14 Civ. 185, 14 Civ. 213, 14 Civ. 214, 14 Civ. 215, and 14 Civ. 216.

- The Corrected Consolidated Class Action Complaint filed by the “Commercial End Users” (ECF No. 242) is the operative complaint for the following **7** actions: 13 Civ. 6567, 13 Civ. 9062, 13 Civ. 9097, 14 Civ. 159, 14 Civ. 178, 14 Civ. 191, and 14 Civ. 199.
- The Consolidated Amended Class Action Complaint filed by the “Consumer End Users” (ECF No. 227) is the operative complaint for the following **2** actions: 13 Civ. 9222 and 14 Civ. 138.
- The Amended Complaint filed by plaintiff Agfa Corp. (ECF No. 272) is the operative complaint for **1** action: 14 Civ. 211.
- The Amended Complaint filed by plaintiff Mag Instrument, Inc. (ECF No. 226) is the operative complaint for **1** action: 14 Civ. 217.
- Plaintiffs in the following **3** actions have either not filed amended complaints, or their inclusion as part of the amended complaints described above is unclear from the docket: 13 Civ. 9095, 14 Civ. 205, and 14 Civ. 1855.²

¹ The determination of this list of actions was made particularly difficult by the fact that this amended complaint (1) was not clearly labeled with the pertinent actions to which it relates, and (2) does not list many of these plaintiffs in the “Plaintiffs” section of the complaint.

² The Court notes that Energy Beverage Management, LLC, et al. v. Goldman Sachs Group, Inc., et al. (14 Civ. 1855) was transferred to this Court from the Southern District of Alabama and consolidated with this multidistrict litigation on March 18, 2014, after the March 12, 2014 deadline

As to any actions which have been consolidated (versus simply coordinated for pretrial and discovery purposes), the Court sees no reason not to terminate those individual actions. Put bluntly, should those individual cases underlying the consolidated complaints proceed to trial, they would be tried before this Court and not return to any original or home jurisdiction.

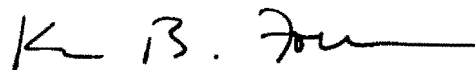
In light of the Court's understandings described above, the upcoming conference on April 25, 2014, and the deadline for the filing of motions to dismiss on the same day, it is hereby

ORDERED that counsel shall inform the Court if they disagree with any of the above understandings by letter **within five business days**.

IT IS FURTHER ORDERED that plaintiff's counsel in the actions listed in the sixth bullet above (13 Civ. 9095, 14 Civ. 205, and 14 Civ. 1855) shall inform the Court whether (1) any of the three consolidated complaints filed to date shall serve as the operative complaints for these actions, or (2) they intend their previously-filed complaints to be the operative complaints for these actions, by letter **within five business days**.

SO ORDERED.

Dated: New York, New York
April 14, 2014



KATHERINE B. FORREST
United States District Judge

for the filing of amended complaints previously set by the Court. (ECF No. 154.) The Court further notes that plaintiff's counsel in 14 Civ. 1855 is also plaintiff's counsel in 13 Civ. 9095.